

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TONY DALE PENWELL,

Petitioner,

v.

SCOTT FRAKES,

Respondent.

Case No. C11-1452-RSL

**ORDER DENYING PETITION FOR
WRIT OF HABEAS CORPUS**

The Court, having reviewed the Report and Recommendation of Brian A. Tsuchida, United States Magistrate Judge, and the remaining record, does hereby find and **ORDER:**

(1) The Court adopts the Report and Recommendation.

(2) Petitioner's petition for writ of habeas corpus (Dkt. No. 4) is **DENIED** and this action is **DISMISSED** with prejudice.

(3) In accordance with Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts, a certificate of appealability is **DENIED**.

1 (4) The Clerk is directed to send copies of this Order to petitioner, to counsel for
2 respondent, and to the Honorable Brian A. Tsuchida.

3 DATED this 12th day of May, 2014.

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6 Robert S. Lasnik
7 United States District Judge
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